

Date..... December 6, 2010

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,832 passed June 19, 2000, and by Ordinance No. 13,839 passed July 10, 2000, and by Ordinance No. 13,878 passed November 6, 2000, and by Ordinance No. 13,888 passed November 20, 2000, and by Ordinance No. 13,889 passed November 20, 2000, and by Ordinance No. 14,018 passed November 19, 2001, and by Ordinance No. 14,124 passed July 22, 2002, and by Ordinance No. 14,171 passed December 16, 2002, and by Ordinance No. 14,326 passed March 22, 2004, and by Ordinance No. 14,455 passed May 23, 2005, and by Ordinance No. 14,668 passed July 9, 2007, and by Ordinance No. 14,768 passed May 19, 2008, and by Ordinance No. 14,890 passed September 28, 2009, and by Ordinance No. 14,911 passed December 7, 2009, by amending Sections 30-291, 30-293, 30-300, 82-207, 82-215, 134-3, 134-842, 134-912, and 134-992, and adding and enacting new Section 134-956, relating to delayed deposit services and pawnbrokers",

which was considered and voted upon for the first time under Roll Call No. 10- 1891 of November 8, 2010, and considered and voted upon for the second time under Roll Call No. 10- 1953 of November 22, 2010, again presented.

Moved by \_\_\_\_\_ that this ordinance do now pass.

ORDINANCE NO. \_\_\_\_\_

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED		APPROVED		

#### CERTIFICATE


I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

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 <b>Council Communication</b> Office of the City Manager	Date:	November 22, 2010
	Agenda Item No.	35
	Roll Call No.	1071953
	Communication No.	10-709
	Submitted by:	Phil Delafield, Community Development Director

**AGENDA HEADING:**

Second reading on Zoning Text and Municipal Code Amendments regulating pawnbrokers and delayed deposit service businesses.

**SYNOPSIS:**

The proposed ordinance would: 1) prohibit pawnbroker and delayed deposit service businesses in the Neighborhood Retail Commercial District (C-1) and Neighborhood Pedestrian Commercial (NPC) District [but allow in the Central Business Mixed Residential District (C-3R)]; 2) require one-half mile separation between pawnbroker and/or delayed deposit service businesses; 3) require 250 feet of separation between pawnbrokers and delayed deposit service businesses from any residentially zoned district or portion of a PUD District devoted to residential use. Staff recommends approval of the ordinance on the second reading and waiver of third reading (requires 6/7th vote).

**FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

**ADDITIONAL INFORMATION:**

On November 8, 2010, the City Council held a public hearing and approved first reading of the proposed ordinance by a vote of 7-0. The City Council also referred the ordinance to the City Manager, City Attorney and Community Development Department for review and recommendation on the following:

1. Meet with representatives of Solar Pawn, David Kouri, 3311 Ingersoll Avenue, and A Quality Pawn and Jewelry, Tom Friend, 1135 Army Post Road, to discuss impacts of the ordinance on their properties.

Staff held discussions with Steve Kouri and Tom Friend via telephone and in person, as directed by City Council. Mr. Friend would like the ability to relocate his existing business to a site that would not conform to the proposed ordinance. Staff recommends that if Mr. Friend acquires interest in another non-conforming property for business relocation, he pursue variances to the proposed ordinance from the Zoning Board of Adjustment. Mr. Kouri would like the ability to expand the gross floor area of his existing business within the boundaries of property he already owns. Staff has determined that the existing provisions of Municipal Code Section 134-1353(b)(2) will allow the expansion that Mr. Kouri described, by-right.

2. Options for limited expansion of existing pawnbrokers who would become legal non-conforming based upon the proposed ordinance.

Municipal Code Section 134-1353(b)(2) regulates non-conforming uses in a conforming building in non-residential districts and states in part: "...a use made nonconforming by this chapter may be structurally altered or enlarged in conformity with the lot area, lot coverage, frontage, yard, height and parking requirements of the district in which located, provided such construction shall be limited to buildings on land owned of record by the owner of the land devoted to the nonconforming use prior to the effective date of the ordinance from which this section derives.." In addition, Municipal Code Section 134-1353 (b)(3) regulates non-conforming uses in non-conforming buildings in non-residential districts and states in part: "...Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use on the effective date of the ordinance adopting or amending this chapter. No such use shall be extended to occupy any land outside such building." Therefore, significant flexibility exists for expansion of legal non-conforming uses. Revisions to the non-conforming use regulations may be necessary in the future. However, no changes are proposed at this time.

3. Options for neighborhood notification.

Staff recommends no change to the ordinance to provide neighborhood notification of administrative decisions regarding pawnbrokers and delayed deposit service businesses. The only administrative decisions that will be made are a determination of full compliance with the proposed ordinance. Staff has no authority under the proposed ordinance to waive a separation standard. Providing notice of the intent to issue an administrative decision for a request that fully complies with the code can create unnecessary angst regarding an entirely objective decision and will cause unnecessary delay to business interests. All requests for relief from separation requirements are subject to a variance from the Board of Adjustment and are subject to the notification of property owners within 250 feet of the property and a public hearing.

4. Options to split the proposed ordinance into separate ordinances for Pawnbrokers and Delayed Deposit Service Businesses.

Staff recommends that the ordinance not be divided into separate ordinances. Once the City Council has taken action, if the ordinance has been approved, the changes resulting from adopted ordinances are placed into the appropriate code sections of the Des Moines Municipal Code. Therefore, if the proposed ordinance were divided into separate ordinances, the resulting action would in the end appear no differently than if a single ordinance were approved.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: November 8, 2010

Roll Call Number: 10-1889

Action: On Zoning Text and Municipal Code amendments regulating pawnbrokers and delayed deposit service businesses. (Council Communication No. 10-681) Moved by Meyer to adopt and approve the text amendments to the Municipal Code, subject to final passage of the ordinance. Motion Carried 7-0.

Date: October 25, 2010

Roll Call Number: 10-1730

Action: On Zoning Text and Municipal Code amendments regulating pawnbrokers and delayed deposit service businesses, (11-8-10). Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: May 17, 2010

Roll Call Number: 10-773

Action: Establishing a 6-month temporary moratorium on the establishment of new or relocation of existing delayed deposit services businesses and pawn businesses, pending a comprehensive review of the applicable regulations. Moved by Meyer to adopt; to approve the findings identified in the resolution; to direct the City Manager and City Attorney to review and report on possible City regulation of the interest rates and fees imposed by pawn brokers and on ways to implement such restrictions for consideration by the City Council at its meeting on May 24<sup>th</sup>; to schedule a public hearing by the City Council to be held at its meeting on June 14, 2010, to consider applications by Pawn America Iowa LLC, and by American Pawn Stars for relief from this moratorium, provided such applications are timely received; and, to receive and file the documents submitted to the City Council during the public comment on this item. Motion Carried 6-1.

#### **BOARD/COMMISSION ACTION(S):**

Board: Plan and Zoning Commission

Date: October 21, 2010

Resolution Number: 10-2010-5.04

Action: The Plan and Zoning Commission voted 11-1 to recommend approval of the proposed ordinance subject to the following conditions:

- 1) The ordinance excludes pawnbrokers;
- 2) Delayed deposit service businesses be prohibited in the C-3R zoning district; and
- 3) Notice shall be mailed to all neighborhood associations at least 30 days prior to issuance of an administrative decision by the Zoning Enforcement Officer to authorize the establishment of any new delayed deposit service business that otherwise complies with the proposed regulations.

#### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Third reading of the proposed ordinance, unless waived by a 6/7th vote of the City Council.

Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).

★ Roll Call Number

10-1891

Agenda Item Number

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Date

November 8, 2010

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,832 passed June 19, 2000, and by Ordinance No. 13,839 passed July 10, 2000, and by Ordinance No. 13,878 passed November 6, 2000, and by Ordinance No. 13,888 passed November 20, 2000, and by Ordinance No. 13,889 passed November 20, 2000, and by Ordinance No. 14,018 passed November 19, 2001, and by Ordinance No. 14,124 passed July 22, 2002, and by Ordinance No. 14,171 passed December 16, 2002, and by Ordinance No. 14,326 passed March 22, 2004, and by Ordinance No. 14,455 passed May 23, 2005, and by Ordinance No. 14,668 passed July 9, 2007, and by Ordinance No. 14,768 passed May 19, 2008, and by Ordinance No. 14,890 passed September 28, 2009, and by Ordinance No. 14,911 passed December 7, 2009, by amending Sections 30-291, 30-293, 30-300, 82-207, 82-215, 134-3, 134-842, 134-912, and 134-992, and adding and enacting new Section 134-956, relating to delayed deposit services and pawnbrokers",

presented.

Moved by Meyer that this ordinance be

considered and given first vote for passage; refer to the City Manager, City Attorney and Community Development for review and recommendation on the following: 1. Meet with representatives of Solar Pawn (David Kouri, 3311 Ingersoll Avenue) and A Quality Pawn

FORM APPROVED:



Michael F. Kelley

Assistant City Attorney

and Jewelry (Tom Friend, 1135 Army Post Road) to discuss impacts of the ordinance on their properties. 2. Options for limited expansion of existing pawnbrokers, who would become legal non-conforming based upon the proposed ordinance. 3. Options for neighborhood notification. 4. Options to split the proposed ordinance into separate ordinances for Pawnbrokers and Delayed Deposit Service Businesses.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin Cownie Mayor

## CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Diane Rauh City Clerk

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,832 passed June 19, 2000, and by Ordinance No. 13,839 passed July 10, 2000, and by Ordinance No. 13,878 passed November 6, 2000, and by Ordinance No. 13,888 passed November 20, 2000, and by Ordinance No. 13,889 passed November 20, 2000, and by Ordinance No. 14,018 passed November 19, 2001, and by Ordinance No. 14,124 passed July 22, 2002, and by Ordinance No. 14,171 passed December 16, 2002, and by Ordinance No. 14,326 passed March 22, 2004, and by Ordinance No. 14,455 passed May 23, 2005, and by Ordinance No. 14,668 passed July 9, 2007, and by Ordinance No. 14,768 passed May 19, 2008, and by Ordinance No. 14,890 passed September 28, 2009, and by Ordinance No. 14,911 passed December 7, 2009, by amending Sections 30-291, 30-293, 30-300, 82-207, 82-215, 134-3, 134-842, 134-912, and 134-992, and adding and enacting new Section 134-956, relating to delayed deposit services and pawnbrokers.

WHEREAS, the proliferation of delayed deposit services businesses (commonly known as "payday lenders") and pawnbrokers suggests that a commercial corridor and the adjoining neighborhoods are in economic and social decline, negatively impacting reinvestment, economic development efforts and property values along the corridor and the adjoining neighborhoods; and,

WHEREAS, these businesses do not create foot traffic for adjacent businesses and a proliferation of such businesses at particular locations can overwhelm a neighborhood and can be a disincentive for the location of other neighborhood businesses in close proximity; and,

WHEREAS, it is reasonable and appropriate to regulate the placement and location of delayed deposit services businesses and pawnbrokers so as to avoid the clustering of such businesses, to protect the surrounding neighborhoods from distress and the appearance of commercial districts in decline, and to avoid the adverse effects upon the overall business atmosphere of the City which are likely to result from an over-concentration of such businesses within the commercial corridors; NOW THEREFORE,

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa, as follows:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,832 passed June 19, 2000, and by Ordinance No. 13,839 passed July 10, 2000, and by Ordinance No. 13,878 passed November 6, 2000, and by Ordinance No. 13,888 passed November 20, 2000, and by Ordinance No. 13,889 passed November 20, 2000, and by Ordinance No. 14,018 passed November 19, 2001, and by Ordinance No. 14,124 passed July 22, 2002, and by Ordinance No. 14,171 passed December 16, 2002, and by Ordinance No. 14,326 passed March 22, 2004, and by Ordinance No. 14,455 passed May 23, 2005, and by Ordinance No. 14,668 passed July 9, 2007, and by Ordinance No. 14,768 passed May 19, 2008, and by Ordinance No. 14,890 passed September 28, 2009, and by Ordinance No. 14,911 passed December 7, 2009, is hereby amended by amending Sections 30-291, 30-293, 30-300, 82-207, 82-215, 134-3, 134-842, 134-912, and 134-992, and adding and enacting new Section 134-956, relating to delayed deposit services and pawnbrokers, as follows:

### DIVISION 3. PAWNBROKERS

#### **Sec. 30-291. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Automated pawn records system* means the records system utilized by the police department to track pawn transactions by pawnbrokers.

*Negative police report* means a report or review compiled by the chief of police or his or her designee which discloses a criminal record of a felony or any conviction under this division two or more times in a calendar year or a conviction under I.C. ch. 714 or failure to have a computer that has internet access and the capability to utilize the automated pawn records system.

*Negative zoning enforcement officer report* means a report or review compiled by the zoning enforcement officer or his or her designee which discloses non-compliance with zoning requirements contained in Chapter 134 or site plan requirements or guidelines contained in Chapter 82 of the Des Moines Municipal Code.

*Pawnbroker* means every person who makes loans or advancements upon pawn, pledge or deposit of personal property or who receives actual possession of personal property as



security for loans, with or without a mortgage or bill of sale thereon, or who by advertisement, sign or otherwise holds himself or herself out as a pawnbroker.

Positive police report means a report or review compiled by the chief of police or his or her designee which does not disclose a criminal record of a felony or any conviction under this division two or more times, in a calendar year, or a conviction under I.C. ch. 714.

**Cross reference(s)**--Definitions generally, § 1-2.

**Sec. 30-293. License criteria.**

Upon receipt of a pawnbroker license application, the city clerk shall forward a copy of the application to the chief of police and the zoning enforcement officer or his or her their designees who shall review the application. The applicant shall furnish such evidence as may reasonably be required in support of the statements set forth in the application. The chief of police and the zoning enforcement officer or his or her their designees shall report to the city clerk within 30 days of receipt of the application considering but not limited to the criteria of whether:

- (1) The applicant or his or her agent or employee charged with receiving or distributing property has been convicted of a felony. However, if the conviction of a felony occurred more than five years before the application for a pawnbroker license and if such person's rights of citizenship have been restored by the governor, such conviction shall not be a bar to obtaining a pawnbroker license;
- (2) The applicant has truthfully reported all relevant facts within the pawnbroker application;
- (3) The applicant has such financial standing and good reputation to indicate that he or she will comply with all the laws of the state and the city; and
- (4) The applicant has a computer that can access the internet and utilize the automated pawn records system.
- (5) The pawnbroker's business complies with zoning requirements contained in chapter 134 and all relevant site plan regulations and guidelines contained in Chapter 82 of the Des Moines Municipal Code.

**Sec. 30-300. Denial, suspension or revocation of license.**

- (a) *Grounds.* A pawnbroker license may be denied, suspended or revoked for any violation of this division, including but not limited to the failure to comply with new or renewal application procedures, a negative police report, a negative zoning enforcement officer report, falsification of a new or renewal application, or for the failure to maintain records in conformity with the requirements enumerated under section 30-301 of this division.
- (b) *Proceedings.* The city clerk shall, upon receipt of information alleging that grounds exist to deny, suspend or revoke the pawnbroker license of any applicant or license under this division and after consultation with the legal department, report the circumstances to the city council, which in such case shall cause a notice to be sent by ordinary mail to the applicant or licensee. The notice shall state that a denial, suspension, or revocation hearing has been set before the city council; the grounds for the proposed denial, suspension or revocation; the date and time of the hearing; and the place where the hearing will be conducted. Upon such hearing, if the city council shall determine that one or more of such grounds do exist, it may deny an application or suspend or revoke an existing license. A suspension shall constitute a minimum period of 14 calendar days to a maximum period of 30 calendar days during which period the licensee may not conduct any business except for redemptions and shall conspicuously post a sign stating the terms of the suspension at the entrance of the licensed premises. Such a sign shall be supplied by and posted by the chief of police or his or her designee. If the license is revoked, no pawnbroker license shall issue to that licensee for a period of one year.

**Sec. 82-207. Application.**

- (a) *Preapplication conference.* Whenever any person proposes to develop any tract or parcel of land, he or she shall submit to the community development department a request for a preapplication conference for any use except the following:
- (1) One- or two-family attached and detached dwellings not within an NPC neighborhood pedestrian commercial district.
  - (2) Except for delayed deposit services and pawnbrokers as defined in section 134-3, Nonresidential building or paving projects provided: i) the property is not

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within an NPC neighborhood pedestrian commercial district, D-R downtown riverfront district; or C-3B central business mixed use district; ii) the project does not involve the extension of parking under the authority of section 134-1377(f)(8) into a zoning district where such parking would be otherwise prohibited; and, iii) the project has a total site area of 10,000 square feet or less.

- (3) Fire stations owned and operated by the city.
- (4) Publicly owned parks, playgrounds, golf courses, recreation areas.
- (5) Agriculture uses, including nurseries and truck gardens, provided that no retail sale shall be permitted on the premises.
- (6) Uses of land or structures not within an NPC neighborhood pedestrian commercial district customarily incidental to and subordinate to those uses set forth in subsections (a)(1) through (5) of this section.
- (7) Except for delayed deposit services and pawnbrokers as defined in section 134-3, development within the NPC neighborhood pedestrian commercial district, D-R downtown riverfront district or C3-B central business mixed use district with a total site area of 2,500 square feet or less and which is determined by the planning director to not increase the nonconformance of such development with the applicable design guidelines in this article.

The conference shall include the applicant or his or her representative, community development department staff and other city staff. The purpose of the conference shall be to acquaint the city staff with the proposed development and to acquaint the applicant or his or her representative with the procedures and with any special problems that might relate to the development. The applicant shall furnish a legal description of the property to be developed at the time of requesting a preapplication conference, and the conference shall be held within 15 days of such request.

(b) *Construction of terms.*

- (1) For the purposes of this article, development is defined to be the placement of buildings and other structures, paved areas, drainage and utility improvements, lighting and other appurtenances related to any uses except one- and two-family dwellings in the districts listed in subsection (a) of this section.

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- (2) Parking accessory to and for use by a use in the NPC district which is located in an adjoining residential district shall be considered to be located in the NPC district for the purposes of this article.
  - (3) In this article, guidelines are intended to be applied collectively. The officer or body charged with determining whether a set of guidelines have been satisfied shall make that determination based upon the level of compliance with the set of guidelines as a whole, and any deficiency in satisfying one or more individual guidelines may be offset by an elevated level of compliance with the guidelines overall, if it is consistent with the purpose of the guidelines and this article.
  - (4) In this article, regulations are intended to be applied individually. The officer or body charged with determining whether a set of regulations have been satisfied shall make that determination upon satisfaction of each and every applicable regulation. Compliance with any individual regulation is intended to be determined independently of the determination of compliance with any other applicable regulation. A set of regulations may include a requirement for compliance with a subset of guidelines.
- (c) *Site plan review.* A site plan shall be submitted and reviewed in accordance with the following:
- (1) After completion of the preapplication conference as required by subsection (a) of this section, and if the applicant wishes to proceed with the development of the property as discussed at such conference, he or she shall cause to be prepared a site plan of such development and submit four copies of the site plan to the community development department. The site plan shall contain all the information required by section 82-212 of this article unless otherwise waived by the planning director. The site plan shall be accompanied by a covering letter requesting review and approval of such plan and by payment of the fee in the amount set in the schedule of fees adopted by the city council by resolution. In addition to the fees, the owner shall pay the costs for any required notification to property owners as established by the community development department.
  - (2) The community development department shall promptly convey one copy to the engineering department, and one copy to the fire department for their review and comments. The remaining copy shall be retained by the

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community development department for review. Such departments shall review the plan for conformance of the design to the regulations set forth in section 82-213 and any applicable design guidelines set forth in this article and shall forward their recommendations concerning the plan to the community development department within ten days after the date of submission of such plan to the community development department.

- (3) A site plan submitted pursuant to this article may be combined with the plans required under the regulations applicable to development in the R-5 mobile home residential district, R-6 planned residential development district, PUD planned unit development district, PBP planned business park district, and C-4 shopping center commercial district. In the event such plans are combined, the submitted plan shall satisfy the requirements under this article and the applicable zoning district regulations.
- (4) Persons developing property wholly owned by the federal government may submit a site plan for approval without paying the fees described in this section.

#### **Sec. 82-215. Application and effectuation.**

(a) No building permit shall be issued for any development involving any use until a site plan has been submitted and approved for such development in accordance with this article, except for the following:

- (1) One- or two-family attached and detached dwellings not within an NPC neighborhood pedestrian commercial district.
- (2) Except for delayed deposit services and pawnbrokers as defined in section 134-3, Nonresidential building or paving projects provided: i) the property is not within an NPC neighborhood pedestrian commercial district, D-R downtown riverfront district or C-3B central business mixed use district; ii) the project does not involve the extension of parking under the authority of section 134-1377(f)(8) into a zoning district where such parking would be otherwise prohibited; and iii) the project has a total site area of 10,000 square feet or less.
- (3) Fire stations owned and operated by the city.
- (4) Publicly owned parks, playgrounds, golf courses, recreation areas.

- (5) Agriculture uses, including nurseries and truck gardens, provided that no retail sale shall be permitted on the premises.
- (6) Uses of land or structures not within an NPC neighborhood pedestrian commercial district customarily incidental to and subordinate to those uses set forth in subsections (a)(1) through (5) of this section.
- (7) Except for delayed deposit services and pawnbrokers as defined in section 134-3, Development within the NPC neighborhood pedestrian commercial district, D-R downtown riverfront district or C-3B central business mixed use district with a total site area of 2,500 square feet or less and which is determined by the planning director to not increase the nonconformance of such development with the applicable design guidelines in this article.

Additionally, no certification of occupancy shall be issued for such development until all terms and conditions of the approved site plan have been satisfactorily completed or provided for.

- (b) Construction, grading, or other development activities for those uses listed subsection (a) of this section shall be carried out only in substantial compliance with the approved site plan and any conditions or restrictions attached thereto.
- (c) When a site plan has been approved for property pursuant to this article, the property shall thereafter be used and maintained in substantial compliance with the approved site plan. No person shall use property in a manner or physical condition that does not substantially conform to the approved site plan for such property.

### **Sec. 134-3. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

-----  
Check means a check, draft, share draft, or other instrument for the payment of money.  
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Delayed deposit services business means a person who for a fee does either of the following:

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- (1) Accepts a check dated subsequent to the date it was written.
- (2) Accepts a check dated on the date it was written and holds the check for a period of time prior to deposit or presentment pursuant to an agreement with, or any representation made to, the maker of the check, whether express or implied.

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Pawnbroker means every person who makes loans or advancements upon pawn, pledge or deposit of personal property or who receives actual possession of personal property as security for loans, with or without a mortgage or bill of sale thereon, or who by advertisement, sign or otherwise holds himself or herself out as a pawnbroker.  
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Person means an individual, group of individuals, partnership, association, corporation, or any other business unit or legal entity.  
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**Cross reference(s)**--Definitions generally, § 1-2.

**Sec. 134-842. Principal permitted uses.**

Only the following uses of structures or land shall be permitted in the C-1 neighborhood retail commercial district.

- (1) Any use permitted in and as limited in the C-0 and R-4 districts.
- (2) Retail business or service establishments such as the following:
  - a. Antique shops.
  - b. Apparel shops.
  - c. Art shops.
  - d. Baby and children's stores.
  - e. Bakeries with a retail sales area where all products produced on the premises are available fresh daily, provided the product preparation and storage area does not exceed 5,000 square feet of gross floor area. Distribution of products to other premises is permitted; however, no

semitrailer trucks shall be used for distribution purposes.

- f. Bicycle shops, sales and repairs.
- g. Bookstores.
- h. Camera stores.
- i. Clothes cleaning and laundry pickup stations.
- j. Collection office of public utility.
- k. Confectionery stores, including ice cream or snack bars.
- l. Dairy stores, retail only.
- m. Delicatessens.
- n. Dance studios.
- o. Drugstores.
- p. Dry goods stores.
- q. Florist shops and greenhouses.
- r. Furniture stores.
- s. Gas stations, including minor automobile repairs as an accessory but not a principal use, provided that the proposed use has undergone site plan review and approval pursuant to guidelines set forth at section 82-214.8, and the design of the site permits no more than six vehicles to be fueled at a time. Gas stations on the following streets only may be designed to permit up to eight vehicles to be fueled at a time:
  - 1. Army Post Road and East Army Post Road from Fleur Drive to Indianola Road.
  - 2. Douglas Avenue from the west city boundary to Martin Luther King, Jr. Parkway.



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3. Euclid Avenue from Martin Luther King, Jr. Parkway to Hubbell Avenue.
  4. Hickman Road from the west city boundary to Fifty-sixth Street.
  5. Hubbell Avenue from Euclid Avenue northeast to the city boundary.
  6. Martin Luther King, Jr. Parkway from Ingersoll Avenue to Euclid Avenue.
  7. Merle Hay Road from Hickman Road to the north city boundary.
  8. East University Avenue from East Fourteenth Street to the east city boundary.
  9. Second Avenue from Euclid Avenue to the north city boundary.
  10. Southeast and East Fourteenth Streets.
  11. Sixty-third Street from the south city limits to Hickman Road.
- t. Gift shops.
- u. Grocery stores including supermarkets.
- v. Hardware stores.
- w. Hobby shops.
- x. Household appliances, sales and repair.
- y. Jewelry stores and watch repair shops.
- z. Key shops.
- aa. Launderette, coin-operated dry cleaning establishments, and dry cleaning or pressing establishments using only nonflammable solvents.
- bb. Locker plant for storage and retail sales only.
- cc. Leather goods stores.

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- dd. Music stores.
- ee. Music studios.
- ff. Paint and wallpaper stores.
- gg. Photographic studios, including film developing and retail sales of photographic equipment and supplies.
- hh. Post office substations.
- ii. Radio and television sales and repair shops.
- jj. Restaurants.
- kk. Shoe and hat repair shops.
- ll. Sporting goods stores.
- mm. Tailor and dressmaking shops.
- nn. Theaters.
- oo. Toy stores.
- pp. Variety stores.
- qq. Automotive and motorcycle accessory and parts stores, provided that retail sales shall be the only business activity and that any runup or testing of engines shall take place within the store building.
- rr. Banks, savings and loan associations and similar financial institutions, but not including delayed deposit services or pawnbrokers.
- ss. Business, secretarial or other commercially operated schools for adults, but not including commercial trade schools, such as gasoline, diesel, or marine engine mechanics schools, or truck driving schools.
- tt. Department stores with no more than 30,000 square feet of gross floor area, including storage.

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- uu. Labor union offices, including assembly halls, not to exceed 1,500 square feet of gross floor area for the assembly hall.
- vv. Lawn mower repair shops, provided that any runup or testing of engines shall take place within the shop building.
- ww. Office buildings, not to exceed 30,000 square feet of gross floor area.
- xx. Photographic printing or developing and photocopying establishments, but not including letter or offset presses.
- yy. Radio stations, not to exceed 15 watts of power, including the transmitting tower, such tower not to exceed 100 feet in height.
- zz. Upholstery shops.
- aaa. Drive-up telephone or telephone booth, erected by a public service corporation, provided the location is approved by the planning director and the city engineer to ensure the facility does not interfere with pedestrian or vehicular circulation on the property, on adjoining property or on the public streets. Such facility shall be exempt from the bulk regulations of this division.
- bbb. Day nurseries, day care centers and nursery schools.
- ccc. Package goods stores for the sale of alcoholic beverages, subject to section 134-954, and further subject to the restriction that such uses shall be permitted only where the area of the C-1 district, or the area of the C-1 district combined with the area of any contiguous district other than an R, PUD or C-0 district, comprises five acres or more, exclusive of streets, highways and alleys.
- ddd. Parking lots used for the temporary placement of motor vehicles while the driver is engaged in

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some other activity (i.e., working, shopping, or attending a recreational event, etc.) but not including a storage lot.

- (3) Combinations of the uses in subsection (2) of this section.
- (4) Business and professional offices supplying commodities or performing services primarily for residents of the neighborhood.

**Sec. 134-912. Principal permitted uses.**

Only the following uses of structures or land shall be permitted in the NPC neighborhood pedestrian commercial district:

- (1) Any use permitted in the C-1 district except:
  - a. Lawn mower repair shops;
  - b. Drive-up telephone or telephone booths; and
  - c. Parking lots, except as permitted by section 134-915.
- (2) Any use permitted in the C-2 district except:
  - a. Automobile accessory stores;
  - b. Automobile, trailer, motorcycle, boat, and farm implement establishments for display, hire, rental, and sales, including sales lots;
  - c. Commercial baseball fields, swimming pools, skating rinks, golf driving ranges, miniature golf courses, trampoline centers, and similar recreational uses and facilities;
  - d. Drive-in theaters;
  - e. Lumberyards;
  - f. Miniwarehouses;
  - g. Monument sales yards unless all monuments are contained within a building or in the back yard of the business;

- h. Motels, motor hotels, and tourist courts;
- i. Parking garages;
- j. Sheetmetal shops;
- k. Sign painting shops;
- l. Mobile home parks;
- m. Used car lots;
- n. Garages for motor vehicle repair;
- o. Automobile washing establishments, unless bays are normally enclosed and an attendant is on duty during all hours of operation;
- p. Adult entertainment businesses; and
- q. Gas stations designed to permit more than six vehicles to be fueled at a time.
- r. Delayed deposit services and pawnbrokers.

**Sec. 134-956. Delayed Deposit Services and Pawnbrokers.**

In the C-2 general retail and highway-oriented commercial district, the following shall apply to delayed deposit services and pawnbrokers:

- (1) No person shall cause or permit the establishment of any delayed deposit service or pawnbroker, as defined in section 134-3, within 1/2 mile from any other such business.
- (2) No person shall cause or permit establishment of any delayed deposit service or pawnbroker, as defined in section 134-3, within 250 feet of any R district or a portion of a PUD district restricted to residential use.
- (3) For the purposes of this section, measurement of separation distances shall be taken on a direct line from the property line of such delayed deposit service or pawnbroker to the point on the property line of such other business, R district or portion of a PUD

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district restricted to residential use which is closest to the property line of such delayed deposit service or pawnbroker.

- (4) The establishment of a delayed deposit service or pawnbroker shall include the opening of such business as a new business, the relocation of such business or the conversion of an existing business location to a delayed deposit service or pawnbroker.

**Secs. 134-9576-134-980. Reserved.**

**Sec. 134-992. Principal Permitted Uses.**

Only the uses of structures or land similar to those listed in this section shall be permitted in the C3-R District.

- (1) Any use permitted in and as limited in the C-1 District.
- (2) Animal Hospitals and veterinary clinics, provided there shall be no outside pens or kennels and no boarding of animals.
- (3) Automobile sales lot for the display, hire, rental and sale of new and used automobiles provided any outside display area shall be used and maintained in conformance with an approved site plan and the parking, display and storage of vehicles for hire, rental or sale shall be limited to the area designated for such use in the site plan.
- (4) Ballrooms and dance halls.
- (5) Bed and breakfast.
- (6) Billiard parlors, pool halls, and gamerooms.
- (7) Bowling alleys.
- (8) Business or commercial school.
- (9) Carpenter and cabinet-making shops for retail custom work.
- (10) Child care centers.
- (11) Department stores.
- (12) Garages for general motor vehicle repair, but not including major body and fender work, overall painting or upholstering and steam cleaning.
- (13) General office uses.
- (14) Hotels.
- (15) Institutions of higher learning, including colleges and universities.
- (16) Laundries.
- (17) Labor union offices, including assembly halls.

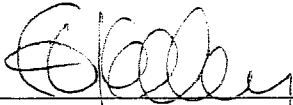
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- (18) Manufacture or treatment of art works and arts-related goods. The work activities shall not adversely impact the public health, safety, and welfare, or the livability, functioning, and appearance of adjacent conforming property. Typical work activities may include craft work, art studios, candle making, jewelry making, fabrication of cloth goods, metal working, glass-blowing, and other similar activities.
- (19) Museums, galleries, auditoriums, libraries and similar cultural facilities.
- (20) Package-goods stores for the sale of alcoholic beverages subject to Section 134-954.
- (21) Pet shops, including aquariums.
- (22) Photographic printing or developing establishments.
- (23) Printing and lithographing shops.
- (24) Parking garages.
- (25) Physical culture or health establishments.
- (26) Radio or television studios.
- (27) Recreational uses and facilities.
- (28) Shelter for the homeless, subject to the following conditions:
- a. Each such facility shall contain a minimum of 70 square feet of usable floor space per occupant. For purposes of computation of usable floor space, that part of the room having no less than seven feet of ceiling height shall be used. Usable floor space shall not include bathrooms.
  - b. Each such facility shall contain at least one lavatory and one toilet per each ten or fewer residents and one tub or shower per each 15 or fewer residents. There shall be a minimum of one bathroom with tub or shower, toilet and lavatory on each floor which has resident bedrooms.
  - c. Each such facility shall comply with all applicable health, safety and welfare regulations.
  - d. No such facility shall be operated until a permit has been issued by the zoning enforcement officer, based upon a finding that the proposed facility complies with all applicable zoning regulations.
- (29) Taverns and night clubs, including private clubs subject to Section 134-954.
- (30) Transportation passenger terminals, including bus stations, railroad passenger stations or other passenger terminals.

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- ~~(30)~~ (31) Delayed deposit services and pawnbrokers, subject  
to section 134-956.
- ~~(31)~~ (32) Combinations of the above uses.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Michael F. Kelley  
Assistant City Attorney